

UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

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In re applications of:)	Docket No. MM 99-153
)	
READING BROADCASTING, INC.)	File No.: BRCT-940407KF
)	
For Renewal of License of)	
Station WTVE(TV), Channel 51)	
at Reading, Pennsylvania)	
)	
and)	
)	
ADAMS COMMUNICATIONS)	File No.: BPCT-94063KG
CORPORATION)	
)	
For Construction Permit for)	
a New Television Station to)	
Operate on Channel 51,)	
Reading, Pennsylvania)	

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Reading, Pennsylvania)	

Room TWA-363
Federal Communications
Commission
445 12th Street, N.W.
Washington, D.C. 20554

Wednesday,
June 21, 2000

The parties met, pursuant to the notice of the
Judge, at 9:32 a.m.

BEFORE: HONORABLE RICHARD L. SIPPEL
Administrative Law Judge

APPEARANCES:

On Behalf of Reading Broadcasting, Inc.:
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On Behalf of the Federal Communications
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 Enforcement Bureau
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I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Wayne J. Fickinger	2427	2431	2444 2451	2447 2460	
Howard N. Gilbert	2464	2516	2550	2555	

E X H I B I T SIDENTIFIEDRECEIVEDREJECTEDAdams:

62	2507	2507
67	2508	2508
70	2509	2509

Reading:

71	2518	2519
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73	2525	2528
74	2531	2534
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Enforcement Bureau:

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Hearing Began: 9:32 a.m.
Recess Began: 11:35 a.m.

Hearing Ended: 1:20 p.m.
Recess Ended: 11:55 a.m.

P R O C E E D I N G S

(9:32 a.m.)

JUDGE SIPPEL: We are on the record.

I just want to go over a checklist of some things to do that we don't necessarily have to do them right now, but let me go over these points.

First, the Bureau Exhibit No. 1 that we talked about yesterday. Are you prepared to mark and move that in today?

MR. SHOOK: Yes, sir.

JUDGE SIPPEL: All right, we'll get to it in just a minute.

The stipulation?

MR. COLE: I revised the stipulation pursuant to Mr. Shook's most recent suggestions, faxed a copy back to him yesterday afternoon. I am waiting to hear back. I don't anticipate any significant difficulty, but I have not heard back from him.

When I hear from him that he has conferred with the witnesses and made sure there are a copacetic with it, then I will send a copy to Mr. Hutton and tell him, you know, at least we've conferred with the witnesses, or I assume Mr. Shook is conferring with the witness to confirm this would be their testimony, send a copy to Mr. Hutton for his comments, and ideally we would get it ready to roll.

1 JUDGE SIPPEL: Well, do you think we can get that
2 done -- I don't think we can get that done today though.

3 MR. COLE: Probably not today, but it's pretty
4 ministerial at this point, I think, isn't it?

5 MR. SHOOK: Assuming that you made the edits that
6 I suggested.

7 MR. COLE: Yes.

8 MR. SHOOK: We're ready to go.

9 MR. COLE: Okay.

10 JUDGE SIPPEL: All right. Well, I've got to get
11 it in on the record. I have to get it in on the record
12 though. Okay, this is not a problem. I'm just trying to
13 think through it logistically how best to do it. I'll think
14 about that.

15 MR. SHOOK: Well, at this point it's really just a
16 matter of bringing it to Mr. Hutton's attention and seeing
17 whether or not he will sign off on it or there is some
18 further negotiating that we all have to do.

19 JUDGE SIPPEL: Right. No, but I would like to
20 have it received on the record as stipulated evidence. I
21 mean, I would prefer to do it that way. I don't necessarily
22 have to do it that way, but let's keep going down my list.
23 It's being done anyway. We'll take care of it.

24 Are there any exhibits identified but which have
25 not been moved into evidence? Does anybody have a check on

1 that?

2 MR. COLE: I believe I have a couple coming in
3 through the witnesses today, but beyond that, no.

4 JUDGE SIPPEL: We seem to be clear?

5 MR. COLE: Yes.

6 JUDGE SIPPEL: I mean, I'll have to do that
7 myself. I'll check my list over lunch.

8 All right, we have to talk about dates for
9 findings and reply findings, and we have to talk about a
10 date, again we're looking for a date for Mr. Parker's return
11 engagement.

12 Can we resolve any of that this week? Certainly
13 we can get the dates on the findings, but what about Mr.
14 Parker, do you think we can pin him down this week?

15 MR. HUTTON: I suspect so. I haven't heard back
16 from him, but I'll try to reach him today.

17 JUDGE SIPPEL: All right. What I'm going to do is
18 I'm going to -- well, let's just leave everything the way it
19 is right now. We can work the dates on the findings and
20 reply findings. We can do that on a telephone conference, I
21 suspect, if we don't get it resolved today.

22 Has anybody come up with any dates? I haven't
23 asked you to but has anybody thought about dates?

24 MR. COLE: Your Honor, it's my experience, I think
25 it's useful to find out when we all get the final transcript

1 because having the transcript is kind of an essential
2 element to getting the findings cranked up and --

3 JUDGE SIPPEL: You know what I think I'm going to
4 do? I think I'm going to schedule a prehearing conference
5 for Monday at 10 a.m., and use that as an opportunity to
6 clean up all these things. But it won't really be a
7 prehearing conference, will it?

8 (Laughter.)

9 MR. SHOOK: Posthearing conference.

10 MR. COLE: Posthearing.

11 JUDGE SIPPEL: Don't have too many of those. At
12 10 a.m. on Monday, and I'll get an order out some time
13 today.

14 MR. SHOOK: Your Honor, considering the matter
15 that the Bureau is trying to push with respect to the
16 parties looking for a possible resolution to this
17 proceeding, we would request as much time as possible with
18 respect to the findings and conclusions to see whether or
19 not matters could be resolved prior to the submission.

20 JUDGE SIPPEL: Well, I've indicated yesterday and
21 I will follow through on that. I intend to be generous
22 because of the time -- because we're into July and August
23 and I mean just as a practical matter it doesn't make any
24 sense to try and make this the fastest submission that's
25 ever been done, and that's in my mind also.

1 But on the other hand, I don't want to have this
2 thing just sitting on a shelf --

3 MR. SHOOK: I'm not suggesting --

4 JUDGE SIPPEL: -- while people are talking.

5 MR. SHOOK: I'm not suggesting that it be open-
6 ended. I am just suggesting that with respect to dates
7 that --

8 JUDGE SIPPEL: Well, think about that when we talk
9 about it on Monday.

10 MR. SHOOK: Yes, sir.

11 JUDGE SIPPEL: I mean, I'm -- to a degree, I am
12 certainly open to that. It's just a question of what the
13 degree will be. But I am sure that we will come up with
14 something that is going to be reasonably satisfactory to
15 everybody.

16 Okay, 10 a.m. on Monday.

17 Now, if you want to hold off on those exhibits or
18 if we have time, I don't want to hold up a witness. If we
19 don't get it done today, we will just do it on Monday.

20 MR. SHOOK: That's fine.

21 JUDGE SIPPEL: So we have a witness today.

22 MR. COLE: Yes, Your Honor.

23 JUDGE SIPPEL: And that will be -- you're going to
24 start with Mr. Fickinger, is that correct?

25 MR. COLE: Yes, Your Honor.

1 JUDGE SIPPEL: Okay. And this is a witness that's
2 being called by Mr. Hutton; is that right?

3 MR. COLE: No, this is my witness.

4 JUDGE SIPPEL: Your witness.

5 MR. COLE: Yes, Your Honor.

6 JUDGE SIPPEL: And then we're going to cross-
7 examine?

8 MR. COLE: Yes, Your Honor.

9 JUDGE SIPPEL: All right.

10 MR. COLE: And, Your Honor, we have two
11 preliminary matters just to state for the record. Per your
12 instruction yesterday we have provided the reporter and I
13 believe Your Honor with copies of -- or we are providing
14 Your Honor right now with copies of tabbed and paginated
15 exhibits which have been introduced thus far at the trial,
16 and these are the new Adams exhibits which have come in
17 during the course of the hearing.

18 JUDGE SIPPEL: Okay. I see that. Thank you.

19 I take it the reporter has these also?

20 MR. COLE: The reporter has notebooks with tabs
21 and so forth into which he can insert the exhibits which he
22 already has in his possession through the hearing.

23 JUDGE SIPPEL: You understand that, Mr. Reporter?

24 We're all set then.

25 MR. COLE: And we also have in the hearing room

1 the unredacted Conestoga documents that include the
2 financial terms that you'll recall when I originally
3 exchanged the transmitter site documents for Adams, Adams
4 68, 69 and 70, the question was raised about certain
5 redactions I had made about financial terms.

6 JUDGE SIPPEL: Yes.

7 MR. COLE: And Your Honor instructed me to
8 distribute unredacted copies and they are being distributed
9 today.

10 JUDGE SIPPEL: Excellent. And the reporter will
11 have those also today, is that right?

12 MR. COLE: Yes. Yes. I believe, Mr. Booth, does
13 the reporter have his copies at this point of those?

14 MR. BOOTH: Yes.

15 MR. COLE: He does, Yes, Your Honor, the reporter
16 does have copies. So that's taken care of.

17 And the third item that I had was the stipulation.
18 You've already covered that, so we have no further
19 preliminary matters.

20 JUDGE SIPPEL: That is excellent.

21 Is there anything now from Reading? Do you have
22 any preliminary matters that you have, sir?

23 MR. SOUTHARD: A couple points briefly.

24 JUDGE SIPPEL: Why don't you start.

25 MR. HUTTON: I did not have a chance yesterday to

1 try to reach Mr. Kravetz concerning the Norwell,
2 Massachusetts amendment. What I propose to do is to try to
3 reach him this week and then bring up the matter of moving
4 that exhibit into evidence at the prehearing or posthearing
5 conference on Monday.

6 JUDGE SIPPEL: Okay, thank you for bringing that
7 to my attention. I had overlooked that.

8 MR. HUTTON: The other matter concerns Mr.
9 Fickinger and Mr. Gilbert's testimony, and your initial
10 question as to whose witnesses they were.

11 JUDGE SIPPEL: Yes.

12 MR. HUTTON: And I just want to recall everybody's
13 -- remind everybody of the discussion we had on Monday
14 morning concerning who would be calling the witnesses, how
15 they would be presented, whether it would be a hostile
16 direct or whether it would be a cross. And our position is
17 that effectively these are joint witnesses. We had intended
18 to take them as direct witnesses, and my understanding is it
19 was agreed that for the purposes of accommodating schedules,
20 et cetera, that those witnesses -- that we would simply do
21 our examination as a cross after Mr. Cole is finished.

22 JUDGE SIPPEL: All right. Is that fair to you,
23 Mr. Cole?

24 MR. COLE: Sure.

25 JUDGE SIPPEL: Is that characterized the right way?

1 MR. COLE: That's correct.

2 JUDGE SIPPEL: That's fine. That's fine.

3 Anything else now?

4 MR. HUTTON: No, sir.

5 JUDGE SIPPEL: Anything from the Bureau?

6 MR. SHOOK: Nothing.

7 JUDGE SIPPEL: Okay, then are we all set to go?

8 MR. COLE: Yes, Your Honor.

9 JUDGE SIPPEL: I know Mr. Gilbert is in the room.

10 Is he going --

11 MR. GILBERT: I'm going to be walking out, Your

12 Honor.

13 JUDGE SIPPEL: Okay.

14 MR. COLE: He knows when he's not wanted, Your

15 Honor.

16 JUDGE SIPPEL: You understand it's nothing

17 personal in this.

18 MR. GILBERT: I understand.

19 (Laughter.)

20 JUDGE SIPPEL: Washington being the friendly town

21 it is.

22 Thank you, sir.

23 Do you want to come forward, sir?

24 Please raise your right hand.

25 Whereupon,

1 WAYNE J. FICKINGER

2 having been duly sworn, was called as a witness
3 and was examined and testified as follows:

4 JUDGE SIPPEL: Thank you, sir. Please be seated.

5 There is water in this carafe. If you want to
6 help yourself before you start, please take the top off
7 before you pour, please.

8 Very well, Mr. Cole.

9 MR. COLE: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. COLE:

12 Q Good morning, Mr. Fickinger.

13 A Good morning.

14 Q Would you please state your name and address for
15 the record?

16 A My name is Wayne Fickinger. I live in Winnetka,
17 Illinois, 1244 Forest Glen South, Winnetka.

18 Q And Mr. Fickinger, could you please describe
19 briefly your -- well, strike that.

20 What is your current employment?

21 A I am retired now. I'm on smaller boards, private
22 boards, but that's basically what I do.

23 Q And could you please describe briefly just for
24 background purposes your professional history?

25 A I was president of J. Walter Thompson Company, New

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1 York Stock Exchange organization, when it developed a
2 holding company, JWT Group. I was president of that. I
3 retired from Thompson and joined Bossell & Jacobs as vice
4 chairman. The job primarily was to help them sell
5 themselves to another -- to another agency.

6 Additionally, during this time I had been involved
7 in a number of nonprofit organizations. I was vice chairman
8 of Mundelein College, I was on the board of Columbia
9 College. I was part of the committee, scholarship committee
10 at the University of Illinois for the James Webb Young fund.
11 I worked with the mayor's committee on tourism. I was on
12 the board of the Chicago Convention and Visitor's Bureau.
13 And I guess perhaps more germane here, I was on the steering
14 committee of an Hispanic organization called El Valor.

15 JUDGE SIPPEL: Do you want to spell that for the
16 reporter?

17 THE WITNESS: It's two words, E-L, V-A-L-O-R.

18 BY MR. COLE:

19 Q Could you just state the approximate time frame
20 which is covered by your professional background?

21 A Well, I started in 1953, but the times that I am
22 talking about was from 1963 until 1990.

23 Q Thank you.

24 And Mr. Fickinger, you are, are you not, an
25 officer, director and shareholder of Adams Communications

1 Corporation?

2 A I am. Yes.

3 Q As I believe you are aware, Adams has an
4 application pending before the FCC for Channel 51 in
5 Reading, Pennsylvania.

6 You are aware of that, are you not?

7 A Yes, I am aware of it.

8 Q Can you state for the record by why Adams filed
9 its application for Channel 51 in Reading?

10 A I think there are two basic reasons. They
11 probably fold into each other.

12 The first is we wanted to get a station to try to
13 make some money, develop the station into a good operation
14 and to make some money, and in doing so, we at the same time
15 wanted to develop an entity that would become a real citizen
16 of the community, a contributing citizen working both sides.

17 Q Did Adams file its application for the purpose of
18 entering into a for-profit settlement?

19 A No, it certainly did not.

20 Q You were, were you not, a principal of Monroe
21 Communications Corporation?

22 A Yes, I was.

23 Q And Monroe Communications Corporation, we've
24 established on the record, was an applicant for a TV station
25 in Chicago, Illinois, which entered into a settlement in

1 approximately 1992, pursuant to which Monroe was paid in the
2 vicinity of \$17 or \$18 million.

3 Is that consistent with your recollection?

4 A Right.

5 Q Did Adams file its application with the idea of
6 entering into a Monroe-type settlement somewhere --

7 A It most certainly did not.

8 Q Why not?

9 A Well, as I said before, we are primarily
10 interested in running a new station, and developing a
11 community relationship with the station and the people in
12 the organization.

13 Q To the best of your knowledge, Mr. Fickinger,
14 could Adams Communications Corporation have entered into a
15 settlement akin to the Monroe settlement when it filed its
16 application in 1994?

17 A No. In the first place, it was against the law,
18 and we knew that, and we had no -- we had no difference of
19 opinion in that. We were into that primarily to get a
20 station to run.

21 Q How did you know it was against the law to enter
22 into a settlement?

23 A Mr. Gilbert.

24 Q I'm sorry. Could you say that again?

25 A Mr. Gilbert told me.

1 Q Did it trouble you that Adams would not be able to
2 dismiss its application consistently with the law?

3 A I'm sorry, I don't --

4 Q Did it bother you that Adams would not be able to
5 dismiss its application in a for-profit settlement?

6 A No, not at all. Not at all.

7 MR. COLE: Your Honor, I have no further
8 questions.

9 JUDGE SIPPEL: Okay, cross-examine?

10 MR. SOUTHARD: Yes, Your Honor. Thank you.

11 JUDGE SIPPEL: I want to say also that I have
12 followed the theory for presentation in Reading's trial
13 brief as well, and found that to be very helpful.

14 You may proceed. On the due process issues.

15 CROSS-EXAMINATION

16 BY MR. SOUTHARD:

17 Q Good morning, Mr. Fickinger.

18 A Good morning.

19 Q My name is Dennis Southard and I represent Reading
20 Broadcasting in this case.

21 A I understand.

22 Q You testified that you are a director of Adams;
23 did I hear that right?

24 A Yes, I am.

25 Q You are also an officer of Adams?

1 A Yes.

2 Q What office do you hold?

3 A Vice presidency.

4 Q Do you hold any other offices?

5 A No.

6 Q How was it decided that you would be vice
7 president of Adams?

8 A Mr. Haag and Mr. Gilbert made the decision, I was
9 one of the persons who would do it, and I would say
10 primarily because of my background in the communications
11 business.

12 Q What are your responsibilities as vice president?

13 A At this juncture, simply following the position
14 that we have been taking right now.

15 Q What do you mean by "following"?

16 A Well, I have been kept up to speed insofar as any
17 kind of activity that we are doing, and my counsel has been
18 sought several times, and that's the extent of my
19 participation.

20 Q Has that been the extent of your responsibilities
21 throughout the entire time of Adams' incorporation?

22 A Yes.

23 Q You mentioned Mr. Haag. Do you know whether he's
24 an officer of Adams?

25 A Yes, he is.

1 Q And what office does he hold?

2 A He's the president.

3 Q Were you involved in the decision whereby Mr. Haag
4 was made president of Adams?

5 A No.

6 Q Do you know how it was decided that he would be
7 president of Adams?

8 A No, I don't.

9 Q And Mr. Gilbert was in here earlier. Do you know
10 whether he's an officer of Adams?

11 A Yes, he is.

12 Q What office does he hold?

13 A I don't know his specific title.

14 Q Are you aware that Adams is a Massachusetts
15 corporation?

16 A I wasn't specifically aware of that, no.

17 Q So you don't know how it was decided that Adams
18 would incorporate in Massachusetts?

19 A No, I don't.

20 Q Do you know what percentage of ownership interest
21 you hold in Adams?

22 A Yes.

23 Q What is that?

24 A 11.5 percent.

25 Q 11.5?

1 A Right.

2 Q You initially agreed that your ownership interest
3 would be 10 percent; is that correct?

4 A I'm not sure. It was a little bit hazy on the
5 thing. I don't know whether it was 10 percent but I know at
6 the present time it's 11.5 percent.

7 Q Now, you have previously been deposed in this
8 case. Do you remember that?

9 A I remember it, yes.

10 Q And at that time you described your interest in
11 Adams as being basically that of an investor.

12 Do you recall that?

13 A An investor who would like very much to have a
14 station, yes.

15 Q Do you know when Adams was incorporated?

16 MR. COLE: Your Honor, I object. None of this
17 appears to be relevant. I am looking at the trial brief
18 which you just mentioned with their outline of whatever case
19 they are going to put in. I'm seeing nothing about any of
20 this testimony, and I fail to see the relevance of Mr.
21 Fickinger's knowledge of when Adams was incorporated
22 relative to the issue in this case.

23 JUDGE SIPPEL: Mr. Southard.

24 MR. SOUTHARD: This witness was offered by Adams
25 to prove or to establish why Adams filed its application.

1 And what I'm going into now is probing the level of this
2 witness's involvement in Adams' operations to know whether
3 or not he's got a basis to know what the purpose of Adams
4 was.

5 JUDGE SIPPEL: Well, it's cross-examination. What
6 he is asking is based on evidence that's been put in the
7 record by Adams; isn't that correct? I mean, this is all
8 information that came in in Phase I?

9 MR. COLE: What information is that?

10 JUDGE SIPPEL: Who the officers were.

11 MR. COLE: That was Phase I information, yes, it
12 was.

13 JUDGE SIPPEL: Where it was incorporated.

14 MR. COLE: Yes, it was.

15 But again, we are in Phase III now, which relates
16 to Adams' intent when it filed its application in 1994.

17 JUDGE SIPPEL: Well, I think I've been pretty
18 generous on both sides of cross-examination. This is not
19 going to take too long to go through. There is nothing
20 inconsistent certainly with how Reading indicated it was
21 going to pursue this issue. The witness certainly shouldn't
22 be surprised by this. I don't find anything wrong with it.
23 I'm going to overrule the objection.

24 MR. SOUTHARD: Thank you, Your Honor.

25 //

1 BY MR. SOUTHARD:

2 Q Mr. Fickinger, do you know when Adams was
3 incorporated?

4 A Well, I'm an old man. My memory isn't what it
5 used to be, but I think it was in 1994.

6 Q Does your recollection tell you that it's the
7 early part of '94 or the late part of '94?

8 A No, I don't know that.

9 JUDGE SIPPEL: Don't get too narrow with this.

10 MR. SOUTHARD: Well, Your Honor, the dates are
11 somewhat important here. Actually, if we can agree that
12 Adams was incorporated on November 23, 1993, I can go on
13 without having to refresh this witness's recollection.

14 JUDGE SIPPEL: November of '93?

15 MR. SOUTHARD: November 23, 1993?

16 JUDGE SIPPEL: Can we stipulate to that?

17 MR. COLE: It's a matter of record, Your Honor. I
18 would certainly stipulate to it.

19 JUDGE SIPPEL: Thank you. Thank you, Mr. Cole.

20 There we go.

21 MR. SOUTHARD: Thank you.

22 BY MR. SOUTHARD:

23 Q When was it first suggested to you that you become
24 an owner of Adams?

25 A I don't know the date but I remember Mr. Haag and

1 Mr. Gilbert talked to me of the potential and what we might
2 achieve in terms of owning a station, and I would say that
3 probably was in 1994. But again, it's been a long time.

4 Q Given that the date that Adams was incorporated on
5 November 23, 1993, were you approached before or after the
6 date of the incorporation?

7 A I think we talked about it before, but again, it's
8 been a long, long time. I'm sorry. Wish I could be more
9 specific but I can't.

10 Q And it was Howard Gilbert, you said, I believe,
11 who first approached you about becoming an owner of Adams?

12 A Howard and Bob, Mr. Haag.

13 Q Now, you testified at your deposition that when
14 Mr. Gilbert approached you about becoming an owner of Adams
15 he cited Channel 51 in Reading, Pennsylvania, as an example
16 of a station that he felt wasn't serving the public
17 interest.

18 Do you recall that testimony?

19 A Yeah. Mm-hmm.

20 Q And he didn't at that time give you any details
21 about why he felt Channel 51 wasn't serving the public
22 interest, did he?

23 A Can't remember if it was then. I know we
24 discussed -- we discussed the idea of home shopping, and I'm
25 not too sure if that was the occasion or before or later.

1 Q Could I ask you -- I'm going to hand you a copy of
2 your deposition.

3 A Okay.

4 Q And I'd ask you to take a look at page 13.

5 A Certainly. Thank you.

6 Q If you can just read to yourself -- I'm sorry.
7 It's Reading Exhibit 43 at page 14; it's page 13 of the
8 deposition transcript. Just read to yourself lines 12
9 through line 5 on the following page.

10 JUDGE SIPPEL: What was that page again?

11 MR. SOUTHARD: It's page 13 of the deposition.

12 JUDGE SIPPEL: Okay.

13 (Witness reads document.)

14 THE WITNESS: Okay.

15 BY MR. SOUTHARD:

16 Q Okay. Mr. Gilbert, when he first talked to you
17 about why Reading wasn't serving the public interest, he
18 didn't give you any details about why?

19 A I can't tell you if that was the time that he did.
20 Eventually he did. It was in that area some time. But I'm
21 sorry, I can't tell you if that specific time was the time.

22 Q Okay. Well, why don't you read that section I
23 just asked you to read, page 13, line 12 through page 14,
24 line 5 out loud for us, please?

25 A You are right. Not in any detail. No, he didn't.

1 Q Okay. You never had any discussions with Mr.
2 Gilbert about participating in an application for a
3 television station in Massachusetts, did you?

4 A No.

5 Q You never discussed with Mr. Gilbert the
6 possibility of filing a competing application against the
7 renewal of any stations in Massachusetts?

8 A No, we never discussed it.

9 Q Have you ever been to Reading, Pennsylvania?

10 A No, I haven't.

11 Q And you've never been involved in any civil
12 activities in the Reading area?

13 A No.

14 Q Prior to -- and we had some brief discussion
15 earlier about Adams' application in this case.

16 A Mm-hmm.

17 Q Prior to that application being filed, you didn't
18 get a draft of it, did you?

19 A No.

20 Q And you weren't involved in selecting Bechtel &
21 Cole as Adams' counsel?

22 A No, I certainly wasn't.

23 Q In fact, you previously testified at your
24 deposition that you don't know who picked Bechtel & Cole as
25 counsel?

1 A I -- no, I don't know specifically. If I had to
2 guess, it would be Howard Gilbert, but I don't know that as
3 a fact.

4 Q Do you know who Garrison Cavell is?

5 A No, I don't.

6 Q Gary Cavell?

7 A No.

8 Q Are you familiar with the firm of Supa & Cavell?

9 A No. No, I am not.

10 Q You weren't involved in selecting the proposed
11 transmitter site for Adams with respect to this application,
12 were you?

13 A No, I knew the activity was underway, but I was
14 not involved in the selection of the site.

15 Q Well, at your deposition you testified that you
16 didn't know who was involved in that process.

17 A No, I didn't. I just knew it was underway in some
18 way or the other.

19 Q You didn't play any role in selecting the bank
20 which Adams used to support its financial qualifications or
21 identification?

22 A No, I didn't.

23 Q And you testified at your deposition that you
24 don't know who selected the bank for that purpose?

25 A No, I don't.

1 Q You didn't participate in determining Adams'
2 budget estimate for the application?

3 A No.

4 Q And you didn't participate in the April 1999
5 revision of the budget application -- the budget estimate?

6 A No.

7 Q Were you even aware that there was an 1999 --

8 A No, I wasn't.

9 Q I'm sorry?

10 A No, I wasn't.

11 Q You have never discussed with any of the other
12 Adams principals the proposed management of the station if
13 Adams is successful, have you?

14 A No.

15 Q In fact, you have never discussed the proposed
16 management of the station with anyone?

17 A No.

18 Q Prior to June 30, 1994, which is the date the
19 application was filed, you had no understanding whatsoever
20 as to what programming Adams would air if it were
21 successful?

22 A No, I didn't say that. No.

23 I'd like to go back a little bit. I have been
24 interested in Hispanic advertising, Hispanic media for many,
25 many years. And I am sure --

1 Q Actually, I don't mean to be rude, but I am going
2 to cute you off --

3 A Certainly.

4 Q -- because you have given your answer to my
5 question.

6 I'd like you to take a look at your deposition at
7 page 10.

8 A Okay, I'm there.

9 Q Okay, could you read for us -- well, here, let me
10 read this. It's page 10, line 15.

11 Question: "Prior to four or five months ago, did
12 you have any," and four or five months ago, your deposition
13 was taken in October of 1999.

14 A Right.

15 Q "Prior to four or five months ago, did you have
16 any understanding or any discussion with any other Adams
17 principals as to what programming Adams would air if Adams
18 were successful?"

19 And your answer is "No."

20 A Well, let me elaborate a little bit on that.

21 Q Was that -- I'm sorry. Was that testimony --

22 JUDGE SIPPEL: Wait just a minute, Mr. Fickinger.
23 He's on cross-examination. You have to respond only to what
24 he asks.

25 MR. COLE: Excuse me, Your Honor. I thought we

1 decided he was a joint witness. Isn't that what --

2 JUDGE SIPPEL: No, he's --

3 MR. COLE: Mr. Southard's preliminary statement
4 was he's a joint witness.

5 JUDGE SIPPEL: He's a joint witness but he's being
6 cross-examined.

7 MR. COLE: I thought he was being presented as
8 their direct witness, Your Honor. I thought that's what Mr.
9 Southard's point was, but I could be wrong on that.

10 JUDGE SIPPEL: No, no, no, you're not wrong on
11 that. I want to get this over with.

12 Go ahead.

13 THE WITNESS: Would you please repeat the
14 question?

15 BY MR. SOUTHARD:

16 Q Was the testimony you gave at your deposition that
17 I just read, that question and answer, was that accurate?

18 MR. COLE: I'm sorry. Would you please --

19 MR. SOUTHARD: I'll be glad to.

20 MR. COLE: -- state what question it is you are
21 talking about?

22 JUDGE SIPPEL: Page 10 of the deposition.

23 BY MR. SOUTHARD:

24 Q Page 10, line 15.

25 Question: "Prior to four or five months ago, did

1 you have any understanding or any discussion with other
2 Adams principals as to what programming Adams would air if
3 Adams were successful?"

4 And your answer was "No."

5 Was that testimony accurate?

6 A No, not totally. Didn't have to discuss it. We
7 were --

8 Q I'm sorry. I got your answer. Thank you.

9 MR. SOUTHARD: I have no further questions.

10 JUDGE SIPPEL: That's it?

11 MR. SOUTHARD: That's it.

12 JUDGE SIPPEL: Mr. Cole?

13 MR. COLE: Does Mr. Shook want to --

14 JUDGE SIPPEL: I'm sorry. Mr. Shook?

15 MR. SHOOK: Happy to defer to Mr. Cole.

16 REDIRECT EXAMINATION

17 BY MR. COLE:

18 Q Mr. Fickinger, would you please state what your
19 understanding of Adams' programming plans with respect to
20 the Reading station were, to the best of your knowledge, at
21 the time the application was filed?

22 A As far as I was concerned, our program was to be
23 an Hispanic, an Hispanic station. We looked at some of the
24 demographics and it looked like the Hispanic area in Berks
25 County was growing significantly. It was a -- perhaps in